IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE

WRIT PETITION NO.2643 OF 2007

Smt.S. Seetalaxmi : Petitioner

V/s.

The Controller of Maharashtra,
Food and Civil Supplies Department,
Mantralaya & Ors. : Respondents

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Mrs.P.P.Bhosale for the petitioner.

Mr.C.R.Sonawane, Asstt. Govt. Pleader for respondent nos.1 to 3.

Mr.R.S.Desai for respondent no.5.

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CORAM : F.I.REBELLO & R.M.SAVANT,JJ.

DATE : JUNE 26, 2007.

P.C.

1. Petitioner was an applicant along with respondent no.5 for a fair-price shop. The Authorised Officer on considering the material on record came to the conclusion that respondent no.5 fell in priority no.2 whereas the petitioner was in priority no.8 and, accordingly, granted the authorised fair-price shop in favour of respondent no.5.

2. The petitioner, being aggrieved by the said order, preferred a revision application before the revisional authority. The revisional authority came to the conclusion that respondent no.5 had not been able to establish the basis on the Employment Exchange card that she was educated unemployed and as such did not fall in priority no.2 but held her eligible under priority no.8. The claim of one Shri Jagdamba Mahila Vikas Mandal, which is respondent no.4 herein, was rejected on the ground that the application was incomplete. Then the case of respondent no.5 was taken up for consideration. It was held that the respondent fell in priority no.8. The claim of the petitioner was rejected as it was found the premises were 40’ outside the boundaries notified.

3. At the hearing of this petition, on behalf of the petitioner, it is submitted that it was wrong on the part of the Authorised Officer not to relax the condition, insofar as the location of the premises is concerned. In our opinion, the relaxation could have been done if there was no other person having premises within the boundaries. Once there was an applicant within the boundaries, the question of exercising discretion in favour of the petitioner would not arise. We, therefore, do not find the order of the Revisional Authority suffers from any

error of law apparent on the face of record. Apart from that, respondent no.5 is running the fair-price shop at least since the year 2005. Considering the above, we are not inclined to exercise the extraordinary jurisdiction. Hence, the petition is rejected.

F.I. REBELLO, J.

R.M. SAVANT, J.